

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
v.)	Crim. No. 16-10137-LTS
)	
(1) KENNETH BRISSETTE, and)	
(2) TIMOTHY SULLIVAN)	
)	

STATUS REPORT

The United States of America, by William D. Weinreb, Acting United States Attorney, and Laura J. Kaplan and Kristina E. Barclay, Assistant United States Attorneys for the District of Massachusetts, submits this Status Report pursuant to the Court's November 21, 2017 Order requiring the government to file a status report setting forth the parties' joint or separate positions as to the effect, if any, of the Second Superseding Indictment on the trial date, the pretrial schedule, pending motions, or any other matter. Undersigned counsel has conferred with counsel for defendants and the parties' positions regarding the effect of the Second Superseding Indictment are as follows:

Defendants: It is defendants' position that the Second Superseding Indictment, which includes new language regarding an "extension of its licensing agreement" and adjustments to the property allegations, necessitates a 30-day extension of the trial date and pretrial schedule in order to allow defendants to complete discovery into the new allegations and supplement their renewed motions to dismiss. Should the Court order a 30-day extension on the pretrial schedule and trial date, defendants propose that they file any renewed motions to dismiss on December 18, 2017; the government file its opposition on January 2, 2018; reply briefs be filed on January 5, 2018; and the Court hold a hearing on the renewed motions as well as the motions currently pending the week of January 8, 2018. Defendants further propose that the parties confer on any

outstanding discovery issues and raise any discovery motions or requests for further particulars in a time frame consistent with their proposed briefing schedule on the renewed motions to dismiss.

Government: It is the government's position that the changes to the Second Superseding Indictment have no material effect on discovery or on defendants' pending motions. The effect of the licensing agreement was briefed extensively by the parties in January and February 2017. *See* Docket Nos. 82-84, 86. Accordingly, the government opposes any continuance of the trial date and pretrial deadlines.

Parties' Availability: In the event the Court grants defendants' request to continue the trial date, the government submits that Kristina E. Barclay, one of the prosecutors assigned to this case, is scheduled for trial in *United States v. DeCicco*, 17-cr-10092-NMG, on February 12, 2018. It is anticipated that the trial will last approximately one week. Counsel for defendant Timothy Sullivan has a trial beginning on February 26, 2018 in *United States v. Ackerly et al.*, 16-cr-10233-RGS, that is currently estimated to last approximately two weeks. All counsel are available for trial in this matter on or after March 26, 2018. Should the Court reset trial on or after that date, the parties will submit a proposed briefing schedule for the renewed motions to dismiss.

Respectfully submitted,

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Acting United States Attorney

By: /s/Kristina E. Barclay
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CERTIFICATE OF SERVICE

I hereby certify that, on the date below, this document was served on counsel for the defendant by electronic mail.

/s/ Kristina E. Barclay
KRISTINA E. BARCLAY
Assistant U.S. Attorney

Dated: December 1, 2017